

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 8, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 15HD-080

Hawaii

Cancellation of Governor's Executive Order No. 3398, the Bond Memorial Public Library, to the Department of Education for Library Site purposes, Kapaau, North Kohala, Hawaii; TMK: (3) 5-4-005:030.

APPLICANT:

Hawaii State Public Library System, Department of Education, a governmental body.

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kapaau, North Kohala, Hawaii identified by Tax Map Key: (3) 5-4-005:030, as shown on the attached map labeled Exhibit A.

AREA:

7,689 square feet, more or less.

ZONING:

State Land Use District:	Urban
County of Hawaii CZO:	Village Commercial (CV-10)

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 3398 to the Department of Education for Library Site purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action to cancel Governor's Executive Order No. 3398 is a housekeeping action. The property deed contains a reverter clause that in the event the property is no longer utilized as a public library and notice has been given, the property reverts to the grantor, the grantor's heirs, executors or assigns without further action. Therefore, the property has reverted to the grantor's heirs, executors or assigns and Chapter 343 has not been triggered.

REMARKS:

By deed dated February 24, 1928, Caroline S. Bond conveyed the subject parcel to the Territory of Hawaii for the purpose of a Public Library. The deed was made subject to the following conditions (see Exhibit B attached for a copy of the 1928 deed):

- (1) That a public library building be erected upon said property on or prior to July 1, 1929;*
- (2) That said building and property be used, on and after July 1, 1929, solely for public library purposes.*

In the event that the Territory shall fail or neglect to fulfill said conditions, upon written notice of such breach being filed with the Territory through its Commissioner of Public Lands, title in said property shall immediately revert in me, my heirs, executors or assigns, without the necessity of any other or further proceedings whatsoever.

Land Division files do not indicate when the library was constructed on the property, but there is no dispute that a public library known as the Bond Memorial Public Library (BMPL) operated on the site for many decades.

At its meeting of May 27, 1988, item F-5, the Land Board approved the set-aside of the parcel to the Department of Education, Hawaii State Public Library System (HSPLS), for library site purposes. The Board submittal mentions that HSPLS had been operating the BMPL (and other libraries throughout the State) without an executive order for the site.

BMPL was in use until about November 08, 2010 when the new North Kohala Public Library opened. By memorandum dated April 26, 2011, the State Librarian informed Land Division that the BMPL building was no longer needed by HSPLS and requested cancellation of the executive order.

Land Division required the completion of Phase 1 Environmental Site Assessment prior to cancellation of the executive order. The assessment was completed in March 2013. An

adjacent property owner had some concerns regarding the cesspool, but after further investigation it appears to be in compliance and the adjacent property owner has not provided documentation to the contrary.

In accordance with the reversionary clause in the deed, notice has been given to the State that the property is no longer being used as a library, therefore the property has reverted to the grantor, grantor's heirs, executors or assigns.

Staff recommends a 60-day notice be given to the Department of Education to vacate the property and deliver the keys to Boyd Bond as the representative of the "Bond heirs".

RECOMMENDATION: That the Board:

1. Approve of and recommend to the Governor issuance of an executive order canceling Governor's Executive Order No. 3398 subject to:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Department of Education will vacate the property and deliver the keys to Boyd Bond within 60 days;
 - C. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the senate or by a majority vote by both in any regular or special session next following the date of the executive order;
 - D. Review and approval by the department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

EXHIBIT A

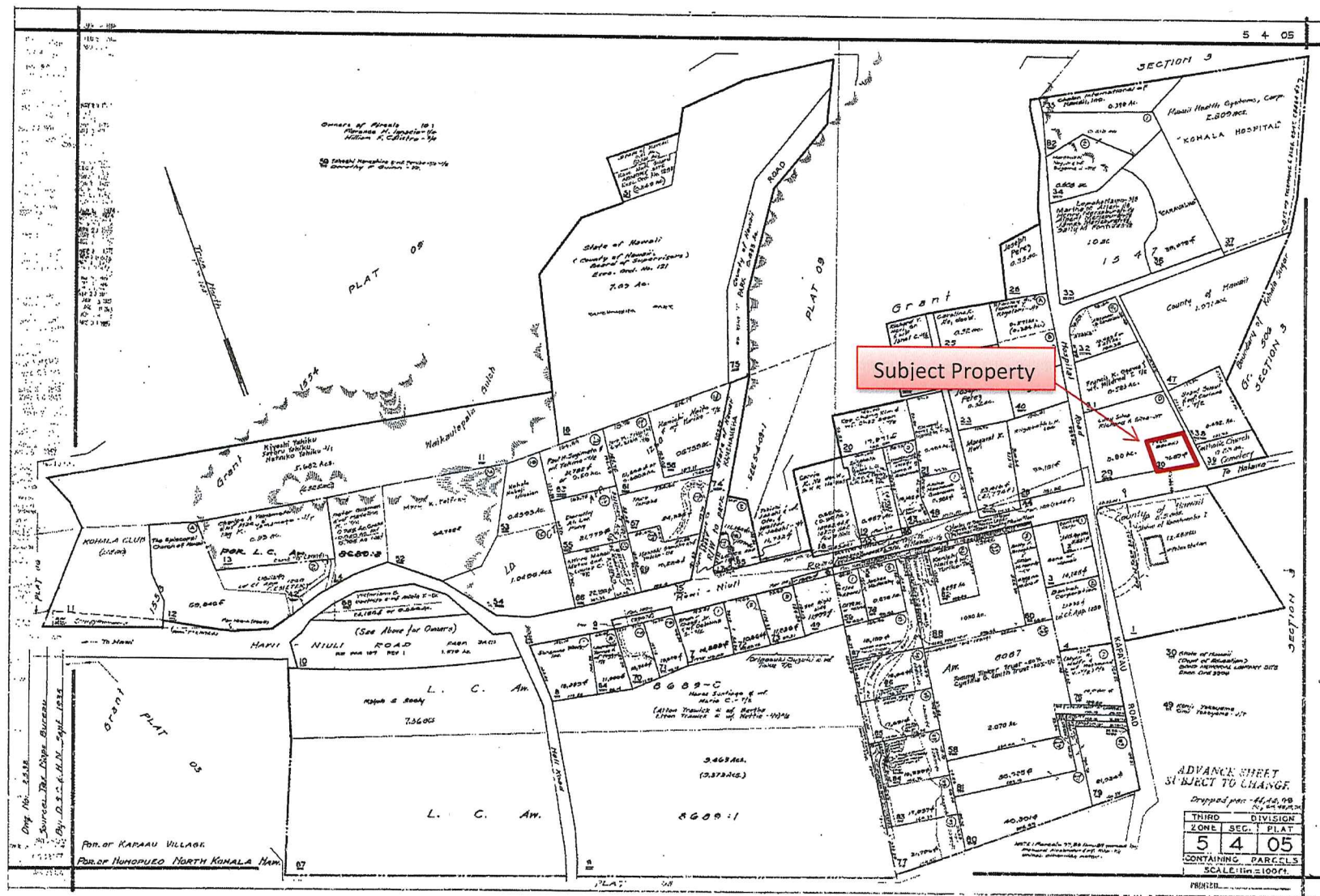
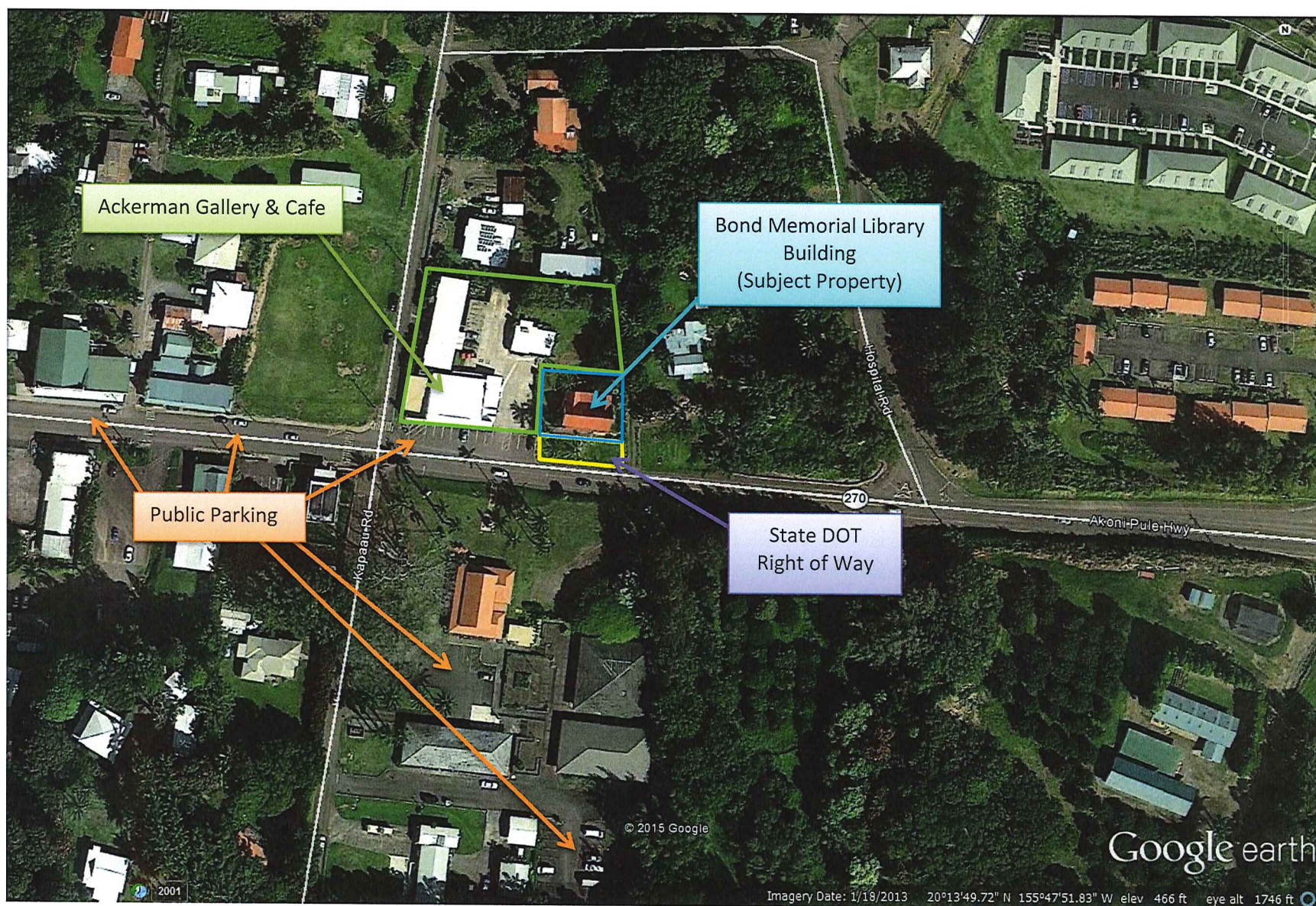


EXHIBIT A

EXHIBIT A



KNOW ALL MEN BY THESE PRESENTS:

THAT I, CAROLINE S. BOND, spinster, of Kohala, County and Territory of Hawaii, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell and convey unto THE TERRITORY OF HAWAII that certain lot, situated in the Village of Kapaau, being a portion of R. P. Grant 1547 to H. W. Naihe, in the Land of Kapaau, North Kohala, County and Territory of Hawaii, and more particularly described as follows:

Beginning at the Southeast corner of this lot, on the West side of lane and the North side of Kohala Road, the co-ordinates of said point of beginning referred to Government Survey Trig. Station "Puu Kapu" being 1760.24 feet South and 389.70 feet West, as shown on Government Survey Registered Map No. 1705, and running by true azimuths:

- b. H. H.*
1. 98 01' - 100 feet along the North side of Kohala Road;
 2. 180 ¹⁵26' - 100 feet along remaining portion of Grant 1547 to Naihe;
 3. 279 15' - 90 feet along same;
 4. 354 24' - 100 feet along fence along West side of lane to the point of beginning.

AREA 9,302 SQUARE FEET.

TO HAVE AND TO HOLD the same unto The Territory of Hawaii, its successors and assigns forever; subject, however, to the following conditions:

- (1) That a public library building be erected upon said property on or prior to July 1, 1929;
- (2) That said building and property be used, on and after July 1, 1929, solely for public library purposes.

IN THE EVENT that the Territory shall fail or neglect to fulfill said conditions, upon written notice of such breach being filed with the Territory through its Commissioner of Public Lands, title in said

EXHIBIT B

property shall immediately revest in me, my heirs, executors or assigns, without the necessity of any other or further proceedings whatsoever. Provided, however, that in the event of such giving of notice and revesting of title, the Territory may within a period of one year from such notice remove any and all buildings, fixtures, or other improvements placed upon or attached to said property.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of February, A. D. 1928.

Caroline S. Bond

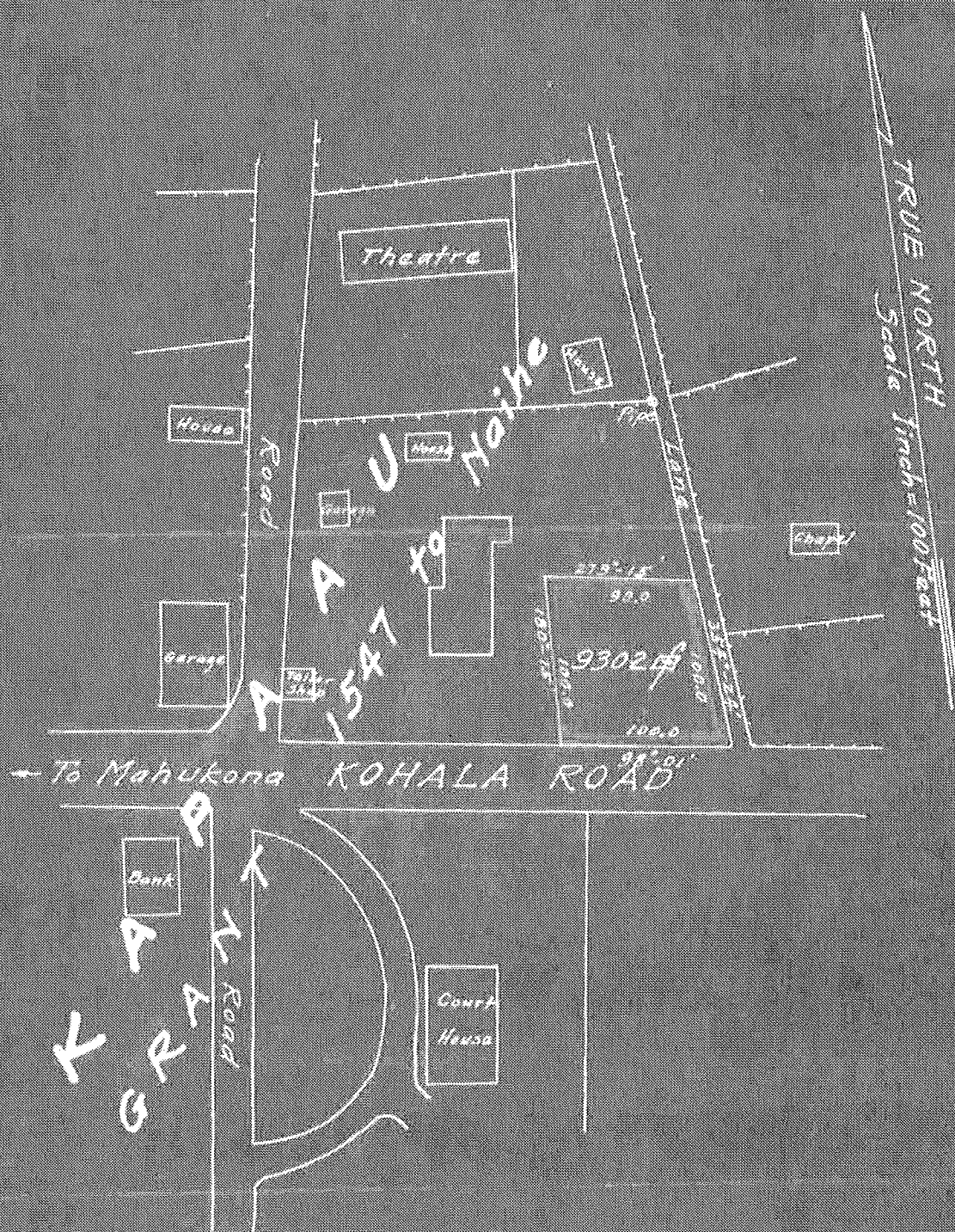
This is to certify that the alteration on line seventeen (17), page one (1), so as to read "15" instead of "20" was made prior to the signing and execution hereof.

C. M. Mannatter
Notary Public, Third Judicial
Circuit, Territory of Hawaii.

TERRITORY OF HAWAII,)
) SS
COUNTY OF HAWAII.)

On this 24th day of February, A. D. 1928, before me personally appeared CAROLINE S. BOND, to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that she executed the same as her free act and deed.

C. M. Mannatter
Notary Public, Third Judicial
Circuit, Territory of Hawaii.



Carolyn S. Bond to Territory of Hawaii
 PUBLIC LIBRARY LOT (Revised)
 PORTION OF GRANT 1547 TO NAIHE
 KAPA'U, NORTH KOHALA, HAWAII.
 Scale 1 inch = 100 Feet.